## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE AT NASHVILLE

ABDULLAH ABRIQ, on behalf of himself	)
and all others similarly situated,	) Case No. 3:17-cv-690
,	) Hon. Waverly D. Crenshaw, Jr.
Plaintiff,	) Magistrate Judge Barbara D. Holmes
v.	)
	) JURY DEMAND
DARON HALL, in his official capacity as	)
Sheriff of Davidson County; and the	)
METROPOLITAN GOVERNMENT OF	)
NASHVILLE AND DAVIDSON COUNTY,	)
	)
Defendants.	)

## PLAINTIFF'S RESPONSE TO DEFENDANT METROPOLITAN GOVERNMENT OF NASHVILLE & DAVIDSON COUNTY'S MOTION TO DISMISS

On April 11, 2017, Defendant Metropolitan Government of Nashville and Davidson County filed a Motion to Dismiss the Plaintiff's original Complaint (Dkt. No. 1) under Rule 12(b)(1) for lack of subject matter jurisdiction and under Rule 12(b)(6) for failure to state a claim. (Dkt. Nos. 16-17.) On April 20, 2017, the Court granted the Plaintiff until May 9, 2017 to respond to the Motion to Dismiss. (Dkt. No. 24.)

Under Federal Rule of Civil Procedure 15(a)(1)(B), a plaintiff may amend an initial pleading once as a matter of course within 21 days after service of a motion under Rule 12(b). On today's date, the Plaintiff, on behalf of himself and all others similarly situated, has responded to the Defendant's Rule 12(b) motion by filing a First Amended Class Action Complaint as a matter of course under Rule 15(a)(1)(B). (Dkt. No. 26.) The First Amended Class Action Complaint supersedes the original Complaint and thereby moots the Motion to

Dismiss. Accordingly, the Plaintiff is not required to respond substantively to the arguments set forth in the Motion to Dismiss.

Dated: May 9, 2017 Respectfully submitted,

## /s/ Tricia R. Herzfeld

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on May 9, 2017, the foregoing document was served via the Court's ECF system upon all counsel of record, including the following:

Keli Oliver Melissa Roberge Metropolitan Government of Nashville Department of Law Metro Courthouse, Suite 108 P.O. Box 196300 Nashville, TN 37219-6300

> <u>/s/ Tricia R. Herzfeld</u> Tricia R. Herzfeld